UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,980	07/11/2003	Lieven Leopold Albertine Trappeniers	Q76440	2865

72875   7590   06/02/2008
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ART UNIT	PAPER NUMBER
2155	

NOTIFICATION DATE	DELIVERY MODE
06/02/2008	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/616,980
Filing Date: July 11, 2003
Appellant(s): TRAPPENIERS ET AL.

ALCATEL
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 4, 2008 appealing from the Office

action mailed July 2, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Predictive bandwidth allocation method and apparatus U.S. Patent No. 6,208,640 B1 issued to Spell et al., (hereinafter referred to as Spell) Published March 27, 2001.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC §102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form
the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public
use or on sale in this country, more than one year prior to the date of application for patent in the United
States.

Claims 1-12, are rejected under 35 U.S.C. 102(b) as being anticipated by **Spell et al.,**
(Hereinafter referred to as Spell) U.S. Patent No. **6,208,640.**

As to claim 1, Spell method for allocating network resources by just-in-time
modulation of quality of service (QoS) comprising:

receiving a user profile from a client terminal, said user profile comprising
aggregated user behavior information recorded at said client terminal (col. 4, lines 7-13,
knowledge for a given user through user parameters that a particular type of data
stream occurring during a certain time period is likely to be relatively long or relatively
short);

receiving QoS demands from said client terminal, said QoS demands determined
based on said user profile (col. 11, lines 10-30, bandwidth usage and other statistics are
collected); and

allocating network resources to said client terminal based on said QoS demands
(col. 11, lines 10-30, coordinating switching up of channels and adding bandwidth based
on user requirements).

As to claim 2, Spell teaches the method according to claim 1, wherein the

method is performed according to QoS user preferences (col. 7, lines 7-31).

As to claim 3, Spell teaches the method according to claim 2, wherein said QoS

user preferences specify a QoS demanding strategy (col. 7, lines 7-31).

As to claim 4, Spell teaches the method according to claim 1, wherein said QoS

demands are predicted by a neural network (col. 4, lines 13-24).

As to claim 5, Spell teaches the method according to claim 1, wherein the

coordinating concurrent QoS demands of a manifold of users (col. 12, line 66 – col. 13,

line 14).

As to claim 11, Spell teaches the method according to claim 4, wherein said

prediction is based on said aggregated service usage and user behavior information

recorded at said client terminal (col. 4, lines 7-27).

As to claim 12, Spell teaches the method according to claim 1, wherein

coordinating concurrent QoS demands of a manifold of users comprises evaluating QoS

demands of a manifold of users, and balancing QoS grants based on QoS user profiles

of said manifold of users (col. 12, line 66 – col. 13, line 14)..

Claims 6-10 do not teach or define any new limitation above claims 1-5 and 11-

12; therefore, they are rejected for similar reasons.

(10) Response to Argument

As per appellant's arguments filed on February 4, 2008, the appellant argues in

substance that Spell fails to teach receiving a user profile from a client terminal, said

user profile comprising aggregated user behavior information recorded at said client

terminal (refer to Appeal Brief pages 11-12).

Spell et al., teaches wherein allocation of telecommunication systems bandwidth

is provided preferably in a predictive fashion. Packets are identified with particular data

streams and characteristics of the data streams are used to predict probable future

bandwidth requirements. Such predictions are used to allocate high-bandwidth

channels, such as ISDN B channels and to close or switch channels as in accordance

with predicted needs. Preferably the system is self-learning and can modify a rules base

for making allocation decisions e.g. based on actual use statistics. in addition to (or in

place of) using classifications of data streams as to type of data, other information

useful in predicting future bandwidth requirements for a data stream are employed

(such as knowledge for a given user *(equated to the claimed aggregated user behavior*

information) that a particular type of data stream occurring during a certain time period

is likely to be relatively long or relatively short). The overall system of Spell teaches

wherein the system makes allocation decisions based on statistics and user parameters

collected on a user and further based on inputs received from a user. for example,

when the user specifies to the system that e-mail messages are to receive top priority

regardless of cost (col. 4, lines 7-13 and col. 11, lines 10-30). Therefore, the system of

Spell et al., taking into consideration actual usages of the user as well as user input to

make the overall bandwidth allocation decision meets the scope of the claimed

limitation.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Shawki S Ismail/
Examiner, Art Unit 2155

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/saleh najjar/

Supervisory Patent Examiner, Art Unit 2155

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